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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,804	01/26/2004	Brandon A. Grooters	P1449US02	9751
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GATEWAY, INC. ATTN: PATENT ATTORNEY 610 GATEWAY DRIVE N. SIOUX CITY, SD 57049			EXAMINER IDOWU, OLUGBENGA O	
			ART UNIT 2425	PAPER NUMBER
			MAIL DATE 11/26/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,804

Applicant(s)

GROOTERS, BRANDON A.

Examiner

OLUGBENGA O. IDOWU

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The examiner will like to commend the applicant for putting forth a good argument in response to the last office action. The examiner still maintains the position taken with regards to transitory events and live events because the recently made amendments do not clarify the claims or distinguish the claims from the prior arts of record. The applicants arguments show the direction the applicant want to take the case but the amendments do not follow the same direction.

With regards to applicant's arguments on page 15, paragraph 1, the applicant describes a transitory event as a non pre-recorded program or a regularly scheduled program. The claims are broadly written and do not point towards non pre-recorded or regularly scheduled programs.

In response to applicant's arguments on page 15, paragraph 2, the inclusion of "said transitory broadcast event being a scheduled live broadcast event" does not further clarify the claims. Applicant is referred to the examiner's previous explanation of a live broadcast event. Also, the fact that the word "scheduled" is included in the amendments contradicts the concept of the invention as understood by the examiner. If the transitory event is scheduled, the EPG would have had information pertaining to the program, hence there wouldn't be a need to create a channel on the fly. In response to applicant's arguments on the last lines of page 15, paragraph 2, applicant's point is understandable but are not tied into the claims in any way.

In response to applicant's arguments on page 15, paragraph 3, the claims are not drawn in the language of the arguments. Even if they were, the issue of the **scheduled** transitory broadcast in the new amendments, contradict the arguments.

In response to arguments on page 15, paragraph 4, with an understanding of the examiner's definition of a live event, the hyperlinks provide a link to information relating the a live event. Also, just to clarify, Jerry Sienfeld's live night club example is not used to refer to a live event. The live event limitation is already covered. Also, in response to arguments in the last two lines of page 16, paragraph 1, the claims are drawn toward transitory event information and not just the transitory event.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 23, 25, 27, 29 and 39 - 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, patent number: US 6 631 523 B1 in view of Knudson, publication number: US 2005/0216936 A1.

As per claims 1, 9 and 17, Matthews teaches an electronic program guide system, comprising:

a first information handling system for obtaining programming information from a program information source and generating a program guide based upon the obtained program information (Headend, col. 5, lines 3 – 5, col. 6, lines 58 – 63, col. 9, lines 43 - 53);

a second information handling system coupled to said first information handling system, for receiving the program guide by causing said first information handling system to transmit the program guide to said second information handling system (STB, col. 5, lines 50 - 64); and

said first information handling system being configured to search a worldwide network for information regarding a transitory broadcast event and to incorporate the transitory event information into the generated program guide prior to transmitting the program guide to said second information handling system, said transitory broadcast event being a scheduled live broadcast event (headend including supplemental data, relating to programs in program guide, col. 9, lines 54 – 67, col. 5, line 65 - col. 6, line 5);

wherein the program guide has a predetermined number of established program channels (EPG, Fig. 5, col. 8, line 66 – col. 9, lines 11), said first information handling system being configured to add the information regarding the transitory broadcast event as a temporary channel (adding information to a relevant channel, col. 10, lines 12 - 17, col. 9, lines 50 - 58)

Matthews does not teach a system where the additional information is displayed in an additional channel.

In an analogous art, Knudson teaches the channel being created in addition to the predetermined number of established program channels in the program guide (adding an additional channel to the EPG for displaying information [0069])

It would have been obvious to one of ordinary skill in the art to modify Matthews EPG system by including an additional channel for displaying information, as described in Knudson's program guide system for the advantages of reducing the clutter experienced by viewers while using the system.

As per claims 2, 10 and 18, the combination of Matthews and Knudson teach said first and second information handling systems being configured to operate as a client and server system, said first information handling system being a server and said second information handling system being a client (Matthews: Headend, col. 5, lines 3 – 5, col. 6, lines 58 – 63, col. 9, lines 43 – 53, STB, col. 5, lines 50 - 64).

As per claims 3, 11 and 18, the combination of Matthews and Knudson teach the worldwide network being the Internet (Matthews: internet, col. 7, line 67, col. 8, lines 13 - 18).

As per claims 4, 12 and 20, the combination of Matthews and Knudson teach wherein first information handling system is configured to search said worldwide network according to a list of parameters (Matthews: nodes containing specific information, col. 8, lines 13 - 18).

As per claims 5, 13 and 21, the combination of Matthews and Knudson teach wherein said list of parameters includes a predetermined list of nodes (Matthews: nodes containing information, col. 8, lines 13 - 18).

As per claims 6, 14 and 22, the combination of Matthews and Knudson teach said second information handling system being configured to receive a broadcast of the transitory broadcast event via the worldwide network (receiving video over the internet, col. 7, lines 12- 15).

As per claims 7, 15 and 29, the combination of Matthews and Knudson teach first information handling system being configured to create the temporary channel in the electronic program guide in response to detecting said transitory event information (Matthews: supplemental content being entered based on its presence, col. 10, line 66 – col. 11, line 7).

As per claims 8 and 16, the combination of Matthews and Knudson teach wherein said transitory broadcast event refers to a scheduled live broadcast event (Matthews: TV program, col. 9, lines 54 - 67)

As per claim 23, the combination of Matthews and Knudson teach wherein the program guide is generated with the programming information for a plurality of channels, said transitory event information being incorporated into the generated program guide by adding an augmented temporary channel to the plurality of channels (Matthews: EPG, Fig. 5, col. 8, line 66 – col. 9, lines 11, col. 9, lines 54 – 62, Knudson: augmented channel [0069]).

As per claims 25 and 27, the combination of Matthews and Knudson teach wherein the program guide is generated with the programming information for a plurality of channels (Matthews: EPG, Fig. 5, col. 8, line 66 – col. 9, lines 11, col. 9, lines 54 – 62)

As per claims 39 – 41, the combination of Matthews and Knudson teaches wherein said programming information from the program information source comprises information about regular programming airing on established media channels, and wherein said programming information from the program information source does not include information regarding said transitory broadcast event (col. 6, lines 58 – 63, links to info, col. 9, line 54 - col. 10, lines 17)

4. Claims 24, 26, 28, 30, 31 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, patent number: US 6 631 523 B1 in view of Knudson, publication number: US 2005/0216936 A1 in further view of Ellis, publication number US 2003/0020744 A1.

As per claims 24, 26, 28, 30, 31 and 32, the combination of Matthews and Knudson teach a system that augments an EPG.

The combination does not teach a system that removes the augmented channel.

In an analogous art, Ellis teaches wherein the augmented temporary channel is removed from the program guide upon completion of the transitory broadcast event (removing channel, [0101])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Matthews and Knudson by allowing the channel to be removed for the advantages of un-cluttering the program guide.

As per claims 24, 26, 28, 30, 31 and 32, the combination of Matthews and Knudson teach wherein the augmented temporary channel is removed from the program guide upon completion of the transitory broadcast event (supplemental content displayed for the length of TV program, Fig. 5, col. 10, lines 12 - 17).

5. Claims 33 – 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, patent number: US 6 631 523 B1 in view of Knudson, publication number: US 2005/0216936 A1 in further view of Schein, patent number 5 801 787.

As per claims 33, 35 and 37, the combination of Matthews and Knudson teach obtaining information on additional programs and displaying the received information with a pre existing program guide.

The combination does not teach wherein said predetermined number of established program channels are associated with a first source of content selected from a group consisting of cable television content, satellite television content, and airwave broadcast television content, the temporary channel being associated with a second source of content different from the first source of content.

In an analogous art, Schein teaches wherein said predetermined number of established program channels are associated with a first source of content selected from a group consisting of cable television content, satellite television content, and airwave broadcast television content, the temporary channel being associated with a second source of content different from the first source of content (Program guide data being received from different sources, col. 2, lines 24 - 43)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Matthews and Knudson by allowing information to be received from different sources, as described in Schien's television schedule system, for the advantages of being able to provide more relevant information to users.

As per claims 34, 36 and 38, the combination of Matthews, Knudson and Schein teach wherein the second source of content is the internet (internet, col. 2, line 39)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2425

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/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425